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WASHINGTON DC 20007

MAILED

JUL 12 2010

OFFICE OF PETITIONS

Applicant: Mochida, et al.	: ON PETITION
Issue Date: Dec. 16, 2008	: 37 CFR 1.705(d)
Application No: 10/081,208	
Patent No. 7,465,429	: REQUEST FOR RECON
Filed: Feb. 25, 2002	
Attorney Docket: 080542-0157	: PATENT TERM ADJUSTMENT

This is a decision on the petitions filed on January 5 and January 15, 2010, which are being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand one hundred forty-one (1141) days. The Office is acting upon the timely filed petition filed January 5, 2008 and not the untimely filed request of January 15, 2010.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand one hundred forty-one (1141) days is **GRANTED-in-PART**.

Patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that in view of the decision in Wyeth, they are entitled to a total patent term adjustment of 1141 days, which includes 290 days due to exceeding three year pendency.

In view of the Federal Circuit decision Wyeth v. Kappos, No. 2009-1120 (Fed. Cir., Jan. 7, 2010), patentees request is granted-in-part. In the instant situation, patentees do not dispute the "A" period delay of 518 days.

Patentees err in the "B" period calculation by one day. In that, the period is calculated from the day after the 36 months, i.e. from February 26, 2005 until one day before the filing of an RCE or the issue date. In this case the RCE was filed on December 12, 2005; hence the "B" period extends from February 26, 2005 to December 11, 2005, for a total of 289 days. Thus, the PTA term is the total "A" delay of 518 days, plus the total "B" delay of 289 days, plus the "C" delay of 519 days, minus applicant's delay of 0 days. As a result the request of a total PTA of 1141 days is **granted-in-part for a total of 1140 days.**

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The applicant is giving **one month or thirty (30) days** whichever is longer to reply to this DECISION. After the response period has elapsed, the Office will *sua sponte* issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by one thousand one hundred and forty (1140) days.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to Maria Nuzzolillo, (571) 272-8150.

/Kery Fries/

Kery Fries
Senior Legal Advisor Attorney
Office of Patent Legal Administration
Office of Associate Commissioner
For Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 7,465,429 B2

DATED : December 16, 2008

Draft

INVENTOR(S) : Mochida, et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (1140) days

Delete the phrase "by 851 days" and insert – by 1140 days--

Day : Monday
Date: 7/12/2010 **PALM INTRANET**

Time: 09:08:53

PTA Calculations for Application: 10/081208

Application Filing Date:	02/25/2002	PTO Delay (PTO):	1037
Issue Date of Patent:	12/16/2008	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	186
Post-Issue Petitions:	0	Total PTA (days):	1140
PTO Delay Adjustment:	289		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
95	07/12/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	289		
91.5	11/25/2008	PTA 36 MONTHS			
91	12/16/2008	PATENT ISSUE DATE USED IN PTA CALCULATION			
90	11/20/2008	EXPORT TO FINAL DATA CAPTURE			
89	11/19/2008	DISPATCH TO FDC			
88	11/19/2008	APPLICATION IS CONSIDERED READY FOR ISSUE			
87	11/14/2008	ISSUE FEE PAYMENT VERIFIED			
86	11/14/2008	ISSUE FEE PAYMENT RECEIVED			
85	10/06/2008	FINISHED INITIAL DATA CAPTURE			
84	09/25/2008	MAIL RESPONSE TO 312 AMENDMENT (PTO-271)			
83	09/24/2008	RESPONSE TO AMENDMENT UNDER RULE 312			
82	09/12/2008	AMENDMENT AFTER NOTICE OF ALLOWANCE (RULE 312)		14	84
81	09/12/2008	MAIL BOA MISCELLANEOUS COMMUNICATION TO APPLICANT			
80	09/12/2008	BOA MISCELLANEOUS COMMUNICATION TO APPLICANT			
79	08/18/2008	EXPORT TO INITIAL DATA CAPTURE			
78	08/15/2008	MAIL NOTICE OF ALLOWANCE			
77	08/15/2008	ISSUE REVISION COMPLETED			
74	08/07/2008	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
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68	06/25/2008	CONFIRMATION OF HEARING BY APPELLANT			
67	06/05/2008	NOTIFICATION OF APPEAL HEARING			
65	04/25/2008	DOCKETING NOTICE MAILED TO APPELLANT			
64	04/25/2008	ASSIGNMENT OF APPEAL NUMBER			
63	04/02/2008	APPEAL AWAITING BPAI DOCKETING			
62	11/29/2007	MAIL REPLY BRIEF NOTED BY EXAMINER			
61	11/27/2007	REPLY BRIEF NOTED BY EXAMINER			
60	11/16/2007	DATE FORWARDED TO EXAMINER			
59	11/07/2007	REPLY BRIEF FILED			
58	11/07/2007	REQUEST FOR ORAL HEARING			
57	10/05/2007	CASE DOCKETED TO EXAMINER IN GAU			
56	10/01/2007	EXAM. ANS. REVIEW COMPLETE			
55	09/07/2007	MAIL EXAMINER'S ANSWER			
54	09/05/2007	EXAMINER'S ANSWER TO APPEAL BRIEF			
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47.1	04/18/2007	DEFECTIVE / INCOMPLETE APPEAL BRIEF FILED			
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43	02/07/2007	ADVISORY ACTION (PTOL-303)			
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39	10/23/2006	FINAL REJECTION			
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35	02/28/2006	MAIL NON-FINAL REJECTION			

34	02/24/2006	NON-FINAL REJECTION			
33	02/25/2002	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
32	12/20/2005	DATE FORWARDED TO EXAMINER			
31	12/12/2005	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
30	12/20/2005	DATE FORWARDED TO EXAMINER			
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28	12/20/2005	DISPOSAL FOR A RCE / CPA / R129			
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26	12/12/2005	WORKFLOW - REQUEST FOR RCE - BEGIN			
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24	08/08/2005	FINAL REJECTION			
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5	04/09/2002	APPLICATION DISPATCHED FROM OIPE			
4	04/09/2002	APPLICATION IS NOW COMPLETE			
3	03/27/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			

2	03/08/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	02/25/2002	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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